

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

GEORGE WORRELL and LINDA  
SOUZA,

Plaintiffs,

v.

PRAJAKTA HARSHE,

Defendants.

HONORABLE NOEL L. HILLMAN

CIVIL ACTION NO. 16-2398

**OPINION**

**APPEARANCES :**

SHERMAN, SILVERSTEIN, KOHL, ROSE & PODOLSKY, P.A.

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**HILLMAN**, United States District Judge:

This dispute arises out of a soured business relationship between Plaintiffs George Worrell and Linda Souza and Defendant Prajakta Harshe. Presently before the Court is Plaintiffs' "Motion to Enforce the Settlement" of this suit.<sup>1</sup> Defendant,

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<sup>1</sup> The Motion to Enforce is incorrectly docketed as "Motion to Seal the Complaint," docket entry #3.

however, disputes that the parties ever reached an agreement to settle this suit, and argues that this Court lacks jurisdiction to consider the motion. The Court agrees that it lacks jurisdiction; therefore the motion will be dismissed for lack of jurisdiction.

I.

The Complaint alleges that during the first months of 2016, and perhaps before, "plaintiffs and defendant [] had fundamental disagreements over the operation" of their "several associated [business] entities." (Compl. ¶ 6, 7) While the parties were allegedly in negotiations to mediate their disputes, the Complaint alleges that "[o]n April 27, 2015, defendant accessed the Yahoo email accounts without plaintiffs' authority or consent in an effort to gain advantage in the negotiations and to obtain attorney client communications." (Id. at ¶ 10)

The Complaint asserts violations of the Electronic Communications Protection Act, 18 U.S.C. § 2511, and the Stored Communications Act, 18 U.S.C. § 2701, as well as claims for libel and slander.<sup>2</sup> However, the instant motion is not based on the above allegations or claims.

In the instant motion, Plaintiffs assert that after the Complaint in this matter was filed, the parties' private mediation

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<sup>2</sup> The Court exercises federal question subject matter jurisdiction, see 28 U.S.C. § 1331, over the claims asserted in the Complaint. The parties are not diverse.

resulted in a written - but unexecuted - settlement agreement (Exhibit 4 to the Motion to Enforce). According to Plaintiffs, the parties reached agreement on all of the terms embodied in the written agreement on the night of May 16, 2016, but Defendant has refused to sign the agreement. (See Milstein Cert. ¶¶ 5-15)

For her part, Defendant states in her certification that "[d]espite many hours of mediation, plaintiffs and I were unable to come to an agreement." (Harshe Decl. ¶ 8)

## II.

Federal courts "have asserted ancillary jurisdiction . . . for two separate, though sometimes related, purposes: (1) to permit disposition by a single court of claims that are, in varying respects and degrees, factually interdependent, and (2) to enable a court to function successfully, that is, to manage its proceedings, vindicate its authority, and effectuate its decrees." *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 379-80 (1994)(internal citations omitted).

The burden of demonstrating ancillary jurisdiction rests with the party invoking it. *Peacock v. Thomas*, 516 U.S. 349, 354-55 (1996)(citing *Kokkonen*).

## III.

Plaintiffs - the parties invoking this Court's jurisdiction - have not demonstrated that this Court has jurisdiction to enforce the alleged settlement. Plaintiffs are correct that the Court may

sometimes enforce a settlement in a case in which the Court has retained jurisdiction, when the existence of the settlement itself is not disputed. That is, when the dispute is whether a party complied with its obligations under an undisputedly valid settlement agreement, a Court may, under certain circumstances, exercise its ancillary jurisdiction "to manage its proceedings, vindicate its authority, and effectuate its decrees." *Kokkonen*, 511 U.S. at 380. And we note, without holding, that the Court at times may be called upon to determine whether a Court-ordered or supervised mediation resulted in a settlement of a matter on the Court's pending docket. Such a situation might more clearly fall within the Court's authority to manage its docket and vindicate its authority.<sup>3</sup>

The issue here, however, is materially different.<sup>4</sup> Here the issue is whether the parties, acting outside the supervision of

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<sup>3</sup> We construe the holding in *Kokkonen* to bar post-settlement contract actions in federal court brought after the federal court has relinquished jurisdiction of the original suit, unless an independent basis of subject matter jurisdiction supports an exercise of jurisdiction.

<sup>4</sup> A third category of cases might be those in which a defendant pleads an affirmative defense that a pre-filing release or other settlement precludes a case or discredits claims brought by a plaintiff. Courts routinely hear and adjudicate the validity of such defenses as they go directly to the Plaintiff's standing to assert a claim in court at all. Here, the claim of a pre-filing settlement is not used as a shield by a defendant but rather a claim of a private, out-of-court, post-filing settlement is being used as a sword by a plaintiff to assert the resolution of its affirmative claims, presumably in its favor. We know of no statute or precedent that confers jurisdiction on this Court to

the Court, entered into a private agreement to settle. In the most basic sense, the question presented is, "do the parties have a contract?" This claim is not "factually interdependent" with any of the claims asserted in the Complaint, *Kokkonen*, 511 U.S. at 380, nor will enforcing the alleged settlement "effectuate" any "decree," nor "vindicate [the] authority," of this Court, *id.*, because the alleged settlement was never embodied in an order of this Court, nor was the process itself ordered or supervised by the Court. It is not insignificant to this analysis that the purported settlement apparently involves persons and entities who are not parties to this suit. The invitation to adjudicate significant rights of parties not before the Court should be readily declined.

In short, at best Plaintiffs have a newly choate state law claim of breach of contract. However, even if Plaintiffs were to file a separate action in this Court seeking adjudication of whether the parties reached an agreement to settle, this Court would lack subject matter jurisdiction over that claim. The parties are not diverse and the question of whether the parties reached an agreement is an issue of state contract law, not federal law. Nor would ancillary jurisdiction support this Court's jurisdiction over that action. *Peacock*, 516 U.S. at 355

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resolve a post-filing state contract claim simply because it would resolve a case on our docket.

("In a subsequent lawsuit involving claims with no independent basis for jurisdiction, a federal court lacks the threshold jurisdictional power that exists when ancillary claims are asserted in the same proceeding as the claims conferring federal jurisdiction."). If a separately filed case would lack a jurisdictional basis, it would seem to follow that any amendment to add to this case additional claims arising from a purported settlement would also require an independent jurisdictional basis; yet none exists.

Thus, this Court lacks jurisdiction over Plaintiffs' Motion to Enforce the Settlement. Accordingly, the motion will be dismissed for lack of jurisdiction.

#### IV.

For the reasons set forth above, Plaintiffs' Motion to Enforce the Settlement Agreement will be dismissed for lack of jurisdiction.

An appropriate Order accompanies this Opinion.

Dated: February 28, 2017

At Camden, New Jersey

\_\_\_\_s/ Noel L. Hillman\_\_\_\_  
**Noel L. Hillman, U.S.D.J.**